

Senate Bill No. 40

CHAPTER 409

An act to amend Sections 1222, 1275, 1280, and 1327 of, to add Section 1265.1 to, and to repeal and add Section 1253.8 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor October 1, 2001. Filed with
Secretary of State October 2, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 40, Alarcon. Unemployment insurance: benefits: compensation.

(1) Under existing law, an unemployed individual is not disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is a student.

This bill would eliminate this provision and instead provide that an unemployed individual is not disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work.

Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

(2) Existing law specifies that a person is "unemployed" in any week during which he or she performs no services and with respect to which no wages are payable to him or her.

This bill would require that payments received from an employer, that has failed to provide advance notice of facility closure required by the federal Worker Adjustment Renotification and Training Act, not be construed to be wages or compensation for personal services for purposes of determination of eligibility for unemployment compensation benefits.

(3) Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins.

This bill would, as specified, revise the calculations for these base periods.

(4) Under existing law, the weekly unemployment compensation benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount is 39% of those wages divided by 13, but may not exceed \$230.

This bill would, for new claims filed with an effective date after January 1, 2002, specify a weekly benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount, of a certain percentage, of those wages divided by 13, and would also increase, in accordance with a certain schedule, the maximum weekly benefit to a specified dollar amount.

Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

The bill would require the Employment Development Department to contract with an independent research organization to study the most effective and efficient means of establishing eligibility for employment insurance benefits.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1222 of the Unemployment Insurance Code is amended to read:

1222. Within 30 days of service of any notice of assessment or denial of claim for refund or credit under Sections 803, 821, 844, or 991, or of any notice under Sections 704.1, 1035, 1055, 1127.5, 1131, 1142, 1143, 1144, 1180, 1184, 1327, 1733, and 1735, any employing unit or other person given the notice, or any employing unit affected by a granting or denial of a transfer of reserve account, may file a petition for review or reassessment with an administrative law judge. The administrative law judge may for good cause grant an additional 30 days for the filing of a petition. If a petition for reassessment is not filed within the 30-day period, or within the additional period granted by the administrative law judge, an assessment is final at the expiration of the period. If a petition for review of a termination of elective coverage under Section 704.1 is not filed within the 30-day period, or within the additional period granted by the administrative law judge, the termination is final at the expiration of the period. If the director fails to serve notice of his or her action within 60 days after a claim for refund or credit is filed, the person or employing unit may consider the claim denied and file a petition with an administrative law judge.

SEC. 2. Section 1253.8 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 1253.8 is added to the Unemployment Insurance Code, to read:

1253.8. An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work. If an individual restricts his or her availability to part-time work, he or she may be considered to be able to work and available for work pursuant to subdivision (c) of Section 1253 if it is determined that all of following conditions exist:

- (a) The claim is based on the part-time employment.
- (b) The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the wage credits were accrued.
- (c) The claimant imposes no other restrictions and is in a labor market in which a reasonable demand exists for the part-time services he or she offers.

SEC. 4. Section 1265.1 is added to the Unemployment Insurance Code, to read:

1265.1. Notwithstanding any other provision of this division, payments to an individual by an employer who has failed to provide the advance notice of facility closure required by the federal Worker Adjustment Renotification and Training (WARN) Act (29 U.S.C. Sec. 1201 et seq.) shall not be construed to be wages or compensation for personal services under this division, and benefits payable under this division shall not be denied or reduced because of the receipt of payments related in any way to an employer's violation of the WARN Act.

SEC. 5. Section 1275 of the Unemployment Insurance Code is amended to read:

1275. Unemployment compensation benefit award computations shall be based on wages paid in the base period. "Base period" means: for benefit years beginning in October, November, or December, the four calendar quarters ended in the next preceding month of June; for benefit years beginning in January, February, or March, the four calendar quarters ended in the next preceding month of September; for benefit years beginning in April, May, or June, the four calendar quarters ended in the next preceding month of December; for benefit years beginning in July, August, or September, the four calendar quarters ended with the next preceding month of March. Wages used in the determination of benefits payable to an individual during any benefit year may not be used in determining that individual's benefits in any subsequent benefit year.

SEC. 6. Section 1280 of the Unemployment Insurance Code is amended to read:

1280. (a) For any new claims filed with an effective date on or after January 1, 1992, and prior to January 1, 2002, an individual's weekly

benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A that contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

A	B
Amount of wages in highest quarter	Weekly benefit amount
\$900.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58
1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64
1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68
1,768.00–1,806.99	69
1,807.00–1,832.99	70



1,833.00–1,871.99	71
1,872.00–1,897.99	72
1,898.00–1,936.99	73
1,937.00–1,975.99	74
1,976.00–2,001.99	75
2,002.00–2,040.99	76
2,041.00–2,066.99	77
2,067.00–2,105.99	78
2,106.00–2,144.99	79
2,145.00–2,170.99	80
2,171.00–2,209.99	81
2,210.00–2,248.99	82
2,249.00–2,287.99	83
2,288.00–2,326.99	84
2,327.00–2,352.99	85
2,353.00–2,391.99	86
2,392.00–2,430.99	87
2,431.00–2,469.99	88
2,470.00–2,508.99	89
2,509.00–2,547.99	90
2,548.00–2,586.99	91
2,587.00–2,625.99	92
2,626.00–2,664.99	93
2,665.00–2,703.99	94
2,704.00–2,742.99	95
2,743.00–2,781.99	96
2,782.00–2,820.99	97
2,821.00–2,859.99	98
2,860.00–2,898.99	99
2,899.00–2,937.99	100
2,938.00–2,989.99	101
2,990.00–3,028.99	102
3,029.00–3,067.99	103
3,068.00–3,106.99	104
3,107.00–3,158.99	105
3,159.00–3,197.99	106
3,198.00–3,236.99	107
3,237.00–3,288.99	108
3,289.00–3,327.99	109



3,328.00–3,379.99	110
3,380.00–3,418.99	111
3,419.00–3,470.99	112
3,471.00–3,509.99	113
3,510.00–3,561.99	114
3,562.00–3,600.99	115
3,601.00–3,652.99	116
3,653.00–3,704.99	117
3,705.00–3,743.99	118
3,744.00–3,795.99	119
3,796.00–3,847.99	120
3,848.00–3,899.99	121
3,900.00–3,938.99	122
3,939.00–3,990.99	123
3,991.00–4,042.99	124
4,043.00–4,079.99	125
4,080.00–4,116.99	126
4,117.00–4,153.99	127
4,154.00–4,190.99	128
4,191.00–4,227.99	129
4,228.00–4,264.99	130
4,265.00–4,301.99	131
4,302.00–4,338.99	132
4,339.00–4,375.99	133
4,376.00–4,412.99	134
4,413.00–4,449.99	135
4,450.00–4,486.99	136
4,487.00–4,523.99	137
4,524.00–4,560.99	138
4,561.00–4,597.99	139
4,598.00–4,634.99	140
4,635.00–4,671.99	141
4,672.00–4,708.99	142
4,709.00–4,745.99	143
4,746.00–4,782.99	144
4,783.00–4,819.99	145
4,820.00–4,856.99	146
4,857.00–4,893.99	147



4,894.00–4,930.99	148
4,931.00–4,966.99	149

If the amount of wages paid an individual for employment by employers exceeds four thousand nine hundred sixty-six dollars and ninety-nine cents (\$4,966.99) in the quarter of his or her base period in which these wages were highest, the individual's weekly benefit amount shall be 39 percent of these wages divided by 13, but in no case shall this amount exceed two hundred thirty dollars (\$230). If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(b) For new claims filed with an effective date beginning on or after January 1, 2002 and prior to January 1, 2003, an individual's weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A that contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

A	B
Amount of wages in highest quarter	Weekly benefit amount
\$900.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
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1,053.00–1,078.99	45
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1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58

1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64
1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68
1,768.00–1,806.99	69
1,807.00–1,832.99	70
1,833.00–1,871.99	71
1,872.00–1,897.99	72
1,898.00–1,936.99	73
1,937.00–1,975.99	74
1,976.00–2,001.99	75
2,002.00–2,040.99	76
2,041.00–2,066.99	77
2,067.00–2,105.99	78
2,106.00–2,144.99	79
2,145.00–2,170.99	80
2,171.00–2,209.99	81
2,210.00–2,248.99	82
2,249.00–2,287.99	83
2,288.00–2,326.99	84
2,327.00–2,352.99	85
2,353.00–2,391.99	86
2,392.00–2,430.99	87
2,431.00–2,469.99	88
2,470.00–2,508.99	89
2,509.00–2,547.99	90
2,548.00–2,586.99	91
2,587.00–2,625.99	92
2,626.00–2,664.99	93
2,665.00–2,703.99	94
2,704.00–2,742.99	95
2,743.00–2,781.99	96



If the amount of wages paid an individual for employment by employers exceeds two thousand seven hundred eighty-one dollars and ninety-nine cents (\$2,781.99) in the quarter of his or her base period in which these wages were highest, the individual's weekly benefit amount shall be 45 percent of these wages divided by 13, but in no case may this amount exceed three hundred thirty dollars (\$330).

(c) For new claims filed with an effective date beginning on or after January 1, 2003, an individual's weekly benefit amount is the amount appearing in column B in the following table opposite the wage bracket in column A that contains the wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

A	B
Amount of wages in highest quarter	Weekly benefit amount
\$900.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
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1,430.00–1,455.99	58
1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64



1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68
1,768.00–1,806.99	69
1,807.00–1,832.99	70

If the amount of wages paid an individual for employment by employers exceeds one thousand eight hundred thirty-two dollars and ninety-nine cents (\$1,832.99) in the quarter of his or her base period in which these wages were highest, the individual's weekly benefit amount shall be 50 percent of these wages divided by 13, but in no case shall this amount exceed the applicable of the following:

(1) For new claims filed with an effective date beginning on or after January 1, 2003, and before January 1, 2004, three hundred seventy dollars (\$370).

(2) For new claims filed with an effective date beginning on or after January 1, 2004, and before January 1, 2005, four hundred ten dollars (\$410).

(3) For new claims filed with an effective date beginning on or after January 1, 2005, four hundred fifty dollars (\$450).

If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

SEC. 7. Section 1327 of the Unemployment Insurance Code is amended to read:

1327. The department shall give a notice of the filing of a new or additional claim to the employing unit by which the claimant was last employed immediately preceding the filing of the claim unless the additional claim is the result of the filing of a partial claim as defined by the department, there has not been a subsequent employing unit which is designated as the last employer, and there is no separation issue. The employing unit so notified shall submit within 10 days after the mailing of the notice any facts then known that may affect the claimant's eligibility for benefits, including, but not limited to, facts pertaining to eligibility under Section 1256. The 10-day period may be extended for good cause. If after the 10-day period the employing unit acquires knowledge of facts that may affect the eligibility of the claimant and facts could not reasonably have been known within the period, the employing unit shall, within 10 days of acquiring the knowledge, submit the facts to the department, and the 10-day period may also be extended for good cause.

SEC. 8. The Employment Development Department shall contract with a nonprofit, nonpartisan independent research organization with a proven record of conducting objective research on social insurance issues in the State of California to study the most effective and efficient means of capturing recent employee wages for the purposes of establishing eligibility for unemployment insurance benefits, including, but not limited to, implementing an alternative base period. The study shall also identify all available federal and state resources that may be utilized to administer the unemployment insurance program. The study shall be completed and submitted to the Legislature by December 31, 2002. The costs of the study shall be paid for from existing department funds.

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